

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

GABRIEL G. H. MIDALGO,

Plaintiff,

DECISION AND ORDER

05-CV-6004L

v.

SGT. KEOUGH, et al.,

Defendants.


This Court referred all pretrial matters in this *pro se* complaint to United States Magistrate Judge Marian W. Payson pursuant to 28 U.S.C. § 636(b). Plaintiff duly filed a *pro se* motion for leave to amend his complaint for the third time. Magistrate Judge Payson issued a Report and Recommendation (Dkt. # 53) granting in part and denying in part plaintiff's motion.

As indicated in Magistrate Judge Payson's Report, she allowed additional parties to be named but recommended denial of the motion to add new claims, identified as Counts Eleven and Thirteen. Plaintiff objected to that part of Magistrate Judge Payson's Report that denied his motion (Dkt. #55).

I have reviewed the objections filed by plaintiff, as well as Magistrate Judge Payson's Report and Recommendation, and I see no basis to change or modify her Report. I accept the Report and

Recommendation in all respects and, as Magistrate Judge Payson did, grant in part and deny in part plaintiff's motion to file an amended complaint.

IT IS SO ORDERED.



DAVID G. LARIMER
United States District Judge

Dated: Rochester, New York
April 13, 2007.